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Case No. CV 18-03424-JLS (AFM)

Petitioner filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on April 24, 2018. According to the petition, petitioner is currently in state custody and is awaiting a criminal trial on charges of attempted murder, battery, and resisting a peace officer. (ECF No. 1 at 2.) In the state court preliminary proceedings, petitioner elected to represent himself. The trial court, however, subsequently revoked petitioner's pro per status based upon its findings that petitioner had engaged in disruptive and obstructive conduct both in and out of court. (ECF No. 1 at 24-36.)

Petitioner challenged the trial court's ruling by filing a petition for a writ of

1 mandate in the California Court of Appeal. (Case No. B286230.)¹ After the petition
2 was denied, petitioner filed a petition for review in the California Supreme Court.
3 (Case No. S246177.) His petition also was denied. (ECF No. 19.)

4 In this federal habeas corpus petition, petitioner alleges that the trial court's
5 revocation of his pro per status violates his rights under *Faretta v. California*, 422
6 U.S. 806 (1974). Petitioner seeks an order directing the state trial court to restore
7 his pro per status in the criminal proceedings. (See ECF No. 1 at 17.) For the
8 following reasons, the petition is subject to summary dismissal.

9 DISCUSSION

10 "Fundamental principles of comity and federalism prohibit the federal courts
11 from enjoining ongoing state proceedings except under 'extraordinary
12 circumstances.'" *Brown v. Ahern*, 676 F.3d 899, 900 (9th Cir. 2012) (quoting
13 *Younger v. Harris*, 401 U.S. 37, 45 (1971)). The longstanding public policy against
14 federal court interference with pending state court proceedings is sufficiently
15 important that federal courts may raise abstention sua sponte. See *Hoye v. City of*
16 *Oakland*, 653 F.3d 835, 843 n.5 (9th Cir. 2011); *Romero v. California*, 2012 WL
17 1570080, at *2 (C.D. Cal. May 3, 2012) (citing *New Orleans Public Service, Inc. v.*
18 *Council of New Orleans*, 491 U.S. 350, 368 (1989)).

19 *Younger* abstention is appropriate where: (1) there are ongoing state judicial
20 proceedings; (2) the proceedings implicate important state interests; and (3) there is
21 an adequate opportunity in the state proceedings to resolve federal questions.
22 *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S.
23 423, 432 (1982); *Dubinka v. Judges of Superior Ct.*, 23 F.3d 218, 223 (9th Cir.
24 1994). In this case, all three of the *Younger* criteria are satisfied.

25 First, petitioner's criminal proceedings are ongoing. See, e.g., *Wilson v.*
26

27 ¹ The Court takes judicial notice of the relevant state court dockets, which are accessible at
28 <http://appellatecases.courtinfo.ca.gov>. See Fed. Rule Evid. 201; *Harris v. County of Orange*, 682
F.3d 1126, 1131-1132 (9th Cir. 2012).

1 *Gastelo*, 2017 WL 2436022, at *2 (C.D. Cal. May 15, 2017) (“Where a federal
2 habeas petition is filed prior to the state courts’ resolution of the petitioner’s direct
3 appeal, district courts generally find that the above three factors are met.”), *report*
4 *and recommendation adopted*, 2017 WL 2432553 (C.D. Cal. June 1, 2017).
5 Second, states have an important interest in passing upon and correcting violations
6 of a criminal defendant’s rights. *See Roberts v. Dicarlo*, 296 F. Supp. 2d 1182,
7 1185 (C.D. Cal. 2003) (states have important interest in addressing violations of
8 criminal defendant’s rights, such that *Younger* abstention appropriate where
9 petitioner’s direct appeal pending in state court of appeal). Third, petitioner has an
10 adequate opportunity in the state trial and appellate proceedings to resolve any
11 federal questions that may have arisen during the proceedings, including an alleged
12 violation of his right of self-representation. *See Middlesex County Ethics*
13 *Committee*, 457 U.S. at 432 (where vital state interests involved, federal court
14 should abstain unless state law clearly bars interposition of constitutional claims)
15 (citations and quotations omitted); *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 15
16 (1987) (federal court should assume state procedures will afford adequate
17 opportunity for consideration of constitutional claims in absence of unambiguous
18 authority to contrary).

19 Extraordinary circumstances may render abstention inappropriate. In
20 particular, abstention may not be warranted where a prosecution is “undertaken by
21 state officials without hope of obtaining a valid conviction,” or if a challenged
22 criminal statute is “flagrantly and patently violative of express constitutional
23 prohibitions.” *Perez v. Ledesma*, 401 U.S. 82, 85 (1971); *see also Espinoza v.*
24 *Montgomery*, 107 F. Supp. 3d 1038, 1042 (N.D. Cal. 2015) (abstention may not be
25 warranted if “the party seeking relief in federal court does not have an adequate
26 remedy at law and will suffer irreparable injury if denied equitable relief” or “the
27 state tribunal is incompetent by reason of bias”). Here, nothing suggests that such
28 extraordinary circumstances exist.

1 Accordingly, the petition is dismissed without prejudice to its refiling after
2 petitioner's state criminal proceedings (including his direct appeal) are completed
3 and his federal claims have been properly presented to the California courts. *See*
4 *Gomez v. FBI*, 2017 WL 5668027, at *2 (C.D. Cal. Nov. 27, 2017) (summary
5 dismissal warranted where all of the *Younger* requirements were satisfied and no
6 extraordinary circumstances existed); *Romero v. California*, 2012 WL 1570080, at
7 *2 (C.D. Cal. May 3, 2012) ("under the *Younger* Abstention Doctrine, this Court is
8 barred from directly interfering with Romero's ongoing state criminal
9 proceedings").

10
11 DATED: May 2, 2018

A handwritten signature in black ink, appearing to read "Josephine L. Staton", written over a horizontal line.

13 JOSEPHINE L. STATON
14 UNITED STATES DISTRICT JUDGE
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